

Suspending limitations on conference committee
jurisdiction, H.B. No. 1161 (Geren/Harris)

By: Harris

S.R. No. 1081

R E S O L U T I O N

1 BE IT RESOLVED by the Senate of the State of Texas, 81st
2 Legislature, Regular Session, 2009, That Senate Rule 12.03 be
3 suspended in part as provided by Senate Rule 12.08 to enable the
4 conference committee appointed to resolve the differences on House
5 Bill 1161 (local regulation of distance requirements for the sale
6 and consumption of alcoholic beverages near certain
7 establishments) to consider and take action on the following
8 matter:

9 (1) Senate Rule 12.03(4) is suspended to allow the
10 conference committee, in SECTION 1 of the bill, to add text not
11 included in either the House or Senate version of the bill that
12 amends Section 109.33(c), Alcoholic Beverage Code, to read as
13 follows:

14 (c) Every applicant for an original alcoholic beverage
15 license or permit for a location [~~with a door by which the public~~
16 ~~may enter the place of business of the applicant~~] that is within
17 1,000 feet of [~~the nearest property line of~~] a public or private
18 school [~~, measured along street lines and directly across~~
19 ~~intersections,~~] must give written notice of the application to
20 officials of the public or private school before filing the
21 application with the commission. A copy of the notice must be
22 submitted to the commission with the application. This subsection
23 does not apply to a permit or license covering a premise where
24 minors are prohibited from entering the premises under Section

1 109.53.

2 Explanation: The addition of the text is necessary to strike
3 from existing law language prescribing the method for measuring the
4 distance between an alcoholic beverage establishment and a school
5 to allow the general rules for measuring distance established by
6 the bill to control.

7 (2) Senate Rule 12.03(1) is suspended to allow the
8 conference committee, in SECTION 1 of the bill, to change text not
9 in disagreement in Section 109.33(f), Alcoholic Beverage Code,
10 amended by the proposed bill, so that the amended section reads as
11 follows:

12 (f) Subsections (a)(2) and (3) do not apply to the holder
13 of:

14 (1) a retail on-premises consumption permit or license
15 if less than 50 percent of the gross receipts for the premises is
16 from the sale or service of alcoholic beverages;

17 (2) a retail off-premises consumption permit or
18 license if less than 50 percent of the gross receipts for the
19 premises [~~excluding the sale of items subject to the motor fuels~~
20 ~~tax,~~] is from the sale or service of alcoholic beverages:

21 (A) excluding the sale of items subject to the
22 motor fuels tax; and

23 (B) including receipts from additional retail
24 buildings owned by the off-premises consumption permit or license
25 holder that are located on the same property as the permitted or
26 licensed premises; or

27 (3) a wholesaler's, distributor's, brewer's,

1 distiller's and rectifier's, winery, wine bottler's or
2 manufacturer's permit or license, or any other license or permit
3 held by a wholesaler or manufacturer as those words are ordinarily
4 used and understood in Chapter 102.

5 Explanation: The change is necessary to apply to retailers
6 in all areas of the state the provision added by the proposed bill
7 to require the inclusion of certain retail receipts in the total
8 receipts used to determine whether an off-premises alcoholic
9 beverage retailer is exempt from certain distance requirements in
10 relation to public and private schools.

11 (3) Senate Rule 12.03(1) is suspended to allow the
12 conference committee, in SECTION 2 of the bill, to change text not
13 in disagreement in Section 109.37(b), Alcoholic Beverage Code,
14 added by the proposed bill, so that the added provision reads as
15 follows:

16 (b) The commissioners court of a county may enact
17 regulations applicable in areas in the county outside an
18 incorporated city or town, and the governing board of an
19 incorporated city or town may enact regulations applicable in the
20 city or town, prohibiting the possession of an open container or the
21 consumption of an alcoholic beverage on a public street, public
22 alley, or public sidewalk within 1,000 feet of a plasma center that
23 is not located in a central business district.

24 Explanation: The change is necessary to remove language
25 prescribing the point from which the distance from a plasma center
26 is measured for the purpose of determining the area within which the
27 consumption of alcoholic beverages is prohibited to allow the

1 general rules for measuring distance established by the proposed
2 bill to control.

3 (4) Senate Rule 12.03(1) is suspended to allow the
4 conference committee, in SECTION 3 of the bill, to change text not
5 in disagreement in Sections 109.59(b) and (c), Alcoholic Beverage
6 Code, amended by the proposed bill, so that the amended sections
7 read as follows:

8 (b) On the sale or transfer of the premises or the business
9 on the premises in which a new original license or permit is
10 required for the premises, the premises shall be deemed to satisfy
11 any distance requirements as if the issuance of the new original
12 permit or license were a renewal of a previously held permit or
13 license if the new permit or license is of the same type as the
14 previously held permit or license.

15 (c) In an incorporated city or town with a population of
16 more than 900,000, Subsection (b) does not apply to the
17 satisfaction of the distance requirement prescribed by Section
18 109.33(a)(2) for a public school, except that on the death of a
19 permit or license holder or a person having an interest in a permit
20 or license Subsection (b) does apply to the holder's surviving
21 spouse or child of the holder or person if the spouse or child
22 qualifies as a successor in interest to the permit or license. The
23 new permit or license must be of the same type as the previously
24 held permit or license.

25 Explanation: The changes are necessary to provide that the
26 amended provision grandfathering certain alcoholic beverage
27 establishments from the application of certain distance

1 requirements applies to establishments in all areas of the state.
2 The changes are also necessary to provide that the amended
3 provision grandfathering only certain alcoholic beverage
4 establishments from the requirements governing the distance of an
5 alcoholic beverage establishment from a public school applies only
6 to an establishment in a city or town with a population of more than
7 900,000 and only if the permit or license for the establishment is
8 of the same type as the permit or license previously held for the
9 location.

10 (5) Senate Rule 12.03(4) is suspended to allow the
11 conference committee, in SECTION 5 of the bill, to add text not
12 included in either the House or Senate version of the bill to repeal
13 certain provisions of the Alcoholic Beverage Code to read as
14 follows:

15 SECTION 5. Sections 109.33(b) and (d), Alcoholic Beverage
16 Code, are repealed.

17 Explanation: The added language is necessary to repeal
18 provisions prescribing the method for measuring the distance
19 between certain alcoholic beverage establishments and certain
20 other establishments for certain purposes so that the general rules
21 for measuring distance provided by the proposed bill control.

22 (6) Senate Rule 12.03(1) is suspended to allow the
23 conference committee, in SECTION 6 of the bill, to change text not
24 in disagreement regarding the effective date of the Act, so that the
25 effective date provision reads as follows:

26 SECTION 6. This Act takes effect September 1, 2009.

27 Explanation: The change is necessary so that the Act takes

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1 effect September 1, 2009.